

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Permission to Engage a Real Estate Consulting Firm to Act as a Consultant for Land Division


The Land Division desires to engage a real estate consulting firm to act as a consultant to provide professional services as described below. Funds for this project are provided from the DLNR Land Maintenance Fund.

<u>Job No.</u>	<u>Project Title</u>	<u>Description</u>
	Various DLNR projects.	Provide consulting services as needed for various DLNR projects involving property owned by State of Hawaii. In situations where the Land Division staff does not have adequate background or knowledge on certain real estate matters, issues, or questions, these consultants will be called upon as a resource on an "as needed" basis and will be paid on an hourly basis based on time spent on a case by case basis. It is expected the consultants will have extensive background and experience in a variety of real estate disciplines and this should be beneficial to have them available as needed. Some of these projects will be long term. Expenditures for this consulting contract shall not exceed \$100,000 for the two-year period from January 27, 2006 to January 26, 2008.

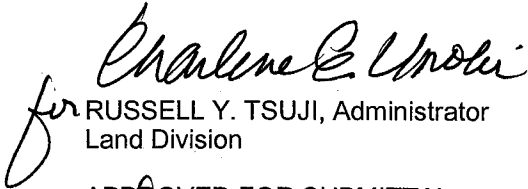
RECOMMENDATION:

That the Board authorize the Chairperson to proceed with the hiring of a qualified consultant for various DLNR projects and to sign the necessary documents to execute the contract for Professional Services.

Respectfully submitted,


Cyrus Chen
Appraisal Manager

Requested by:


for RUSSELL Y. TSUJI, Administrator
Land Division

APPROVED FOR SUBMITTAL:


PETER T. YOUNG, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:

Island of Hawaii

Approval in Principle - Sale of Land License at Public Auction for Removal of Rock
Aggregate Purposes, Waiakea, South Hilo, Hawaii
Tax Map Key: 3rd/ 2-1-13: Portion of 02

APPLICANT:

Yamada and Sons, Inc., a Hawaii corporation, whose business and mailing address is 733
Kanoelehua Avenue, Hilo, Hawaii 96720.

REQUEST:

Approval in Principle - Sale of land license at public auction for removal of rock aggregate
purposes.

LEGAL REFERENCE:

Section 171-54, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax
Map Key: 3rd/ 2-1-13: Portion of 02, as shown on the attached map labeled Exhibit A.

AREA:

15 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Agriculture (AG-20)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

To enter and quarry, crush, stockpile, and remove rock and waste deposits for commercial use provided the operation of a rock crusher(s) on and within the license area shall be a permitted use.

LIMITS ON REMOVAL

To be determined at the time of final submittal to the Board.

LICENSE TERM:

20 years

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL LICENSE FEE:

To be determined by staff or independent appraisal, subject to review and approval by the Chairperson.

ROYALTY RATE:

To be determined by staff or independent appraisal, subject to approval by the Chairperson.

EFFECTIVE ROYALTY:

The successful bid at public auction on the annual license fee or the royalty rate applied to the amount removed, whichever is higher.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

The annual license fee and royalty rate shall be reopened after ten (10) years.

PERFORMANCE BOND:

Twice the annual license fee.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The purpose of this submittal is an approval in-principle of a land license so as to allow the Applicant to fund the cost of an Environmental Assessment in compliance with Chapter 343, HRS. The purpose of the approval in-principle is for the Board to also approve the imposition of a condition in the final submittal for auction, that should the Applicant, Yamada & Sonc, Inc., not be the winning bidder at the public auction, the successful bidder shall be required to reimburse Yamada & Sons, Inc., the cost of Chapter 343, HRS compliance.

NOTE: The anticipated cost of the preparation of an Environmental Assessment is estimated to be \$17,000. A proposal from Geometrician Associates, LLC is attached (Exhibit B) as support for the estimated cost of Chapter 343, HRS compliance.

REMARKS:

At its meeting of October 14, 2005, the Board approved a new five year land license to the Applicant on an adjacent area within which the Applicant had been quarrying for the last 20 years under a license that expired in November 2005. The Board's action was limited to 5 years and issued as a direct license due to the limited material remaining to be quarried estimated to take another 3 to 5 years and the County of Hawaii's interest in obtaining the area for designation as a site for disaster debris to satisfy FEMA requirements.

The need for rock aggregate is a basic resource required for roads, buildings, etc. and is vital to the island economy. Although, the Applicant has the existing quarry license together with a license on Kamehameha School land, they need to anticipate future needs since the need for Chapter 343 compliance and special permitting from the County of Hawaii, require long lead times for the establishment of new quarry areas. The Applicant understands the need for the license to be issued by public auction and is willing to front the cost of Chapter 343 compliance. However, the Applicant is requesting that should he not be the winning bidder, that such winning bidder be required to reimburse him for the cost of compliance.

Towards that end, staff has attached a copy of a fee proposal the Applicant received from a consultant for the preparation of an Environmental Assessment. The fee proposal is for \$17,000, however, may be subject to additional fees depending upon advertising costs, a requirement for additional public meetings, request for contested case, etc. The Applicant is requesting that the actual cost of Chapter 343, HRS, compliance be subject to reimbursement should he not be the winning bidder and that such reimbursement shall be based on actual cost subject to review and approval by DLNR. The reimbursement shall not include reimbursement of the Applicant's own internal staff time and costs.

As part of future land licenses, staff would like to impose modified conditions on the required closure plans. Although prior land licenses have been subject to a requirement for a closure plan, once a quarry is complete, it becomes a large hole in the ground surrounded by 30 to 50 foot cliff faces that perpetually pose a liability to the State. Prior closure plans have included earth berms and fencing that do not really mitigate the long term liability for the State. Once fencing deteriorates, there is really nothing mitigating the sheer cliffs except for earthen berms.

Staff researched quarry closure plans on the internet and found a reasonable concept that is used in Alaska. The following is a sample of the requirement:

The remaining quarry face will be stepped back, with a maximum 20-foot rise at $\frac{1}{4}$:1 slope and minimum 10-foot wide benches between each rise. This benching is provided to break up the vertical drop of the pit wall, provide safe access for quarry activities, and to control rock fall. All sides of the quarry shall be required to be left as a clean stabilized slope face without any protruding or perched rocks that may contribute to a rock fall problem.

Unfortunately, it is impractical to impose this condition upon the existing and prior quarry licenses since they have already been quarried to the boundary. However, staff is recommending that this condition be imposed on future quarry land licenses and will include it as a condition of the new proposed quarry. Staff will also require that the condition be included in the drafting of the Environmental Assessment for the new proposed quarry.

Staff is also recommending that the Environmental Assessment to be prepared by the Applicant include a proposed new separate land license for an expansion of the existing and former quarries to create the desired benching effect to mitigate the existing sheer cliffs. Although the practicality may be hindered by the location of existing roads and boundaries, staff would like to proceed with this mitigating effort wherever possible.

The subject area is a portion of a large State owned parcel consisting of 2500+ acres that is adjacent to the County landfill, the County dragstrip, the primary County wastewater plant, the Hilo Airport and the National Guard facilities that include a rifle and pistol firing range. As such, it would be reasonable to expect that any future use of this area would be for industrial or other public uses that would be compatible with airport noise and solid waste operations. The exception to this would be that this area also borders existing and potential future DHHL residential development. DHHL has put a large scale residential development of over a 1,000 homes on hold due to the noise levels produced by the County's drag strip facilities.

Given the foregoing, staff would consider the proposal reasonable as a land use and recommends that the Board approve in-principle the issuance of a land license subject to the Applicant fronting the cost of Chapter 343 compliance and an acceptable FONSI.

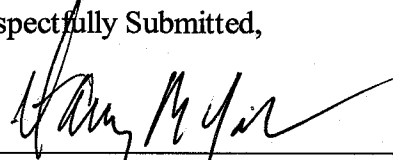
No agency or community comments were solicited as this is an approval in principle and the intent is for the Applicant to prepare an Environmental Assessment that would include a pre-consultation process involving the standard agencies normally included in our circulation for comment.

RECOMMENDATION That the Board:

1. Approve in principle, the sale of a land license at public auction covering the subject area for the purposes specified in the foregoing under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The Applicant is authorized to proceed with the necessary studies and surveys necessary for compliance with Chapter 343, HRS;

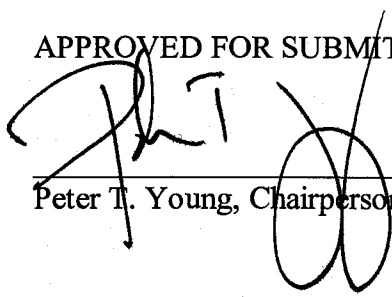
- B. The direct costs associated with the Chapter 343, HRS, compliance exclusive of Applicant's staff and time costs shall be a reimbursable cost should the Applicant not be the winning bidder at the public auction of a land license on the subject area;
- C. Applicant acknowledges that there is no assurance of a Findings of No Significant Impact on the proposed license and no assurance that the Board will approve the sale of a land license after the completion of the Final Environmental Assessment;
- D. In event there is no FONSI and the Board deems not to authorize a sale of a land license, there shall be no obligation for reimbursement for the Applicant's cost; and
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



District Land Agent
Harry M. Yada

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

EXHIBIT A

geometrician

ASSOCIATES, LLC

integrating geographic science and planning

phone: (808) 982-5831 fax: (808) 966-7593 HC 2 Box 9575 Kea'au Hawai'i 96749
ronterry@verizon.net

8 September 2005

Donald Yamada
Yamada and Sons, Inc.
Via fax: 933-8415

Dear Mr. Yamada:

**Subject: Request for Proposal - Environmental Assessment
for Quarry on TMK 2-1-13:02 (por.)**

This is in response to your request for a proposal from Geometrician Associates, LLC, (GEO) to conduct an Environmental Assessment (EA) for the development of a rock quarry on an area of less than 15 acres on State land at TMK (3rd) 2-1-13:02 in Waiakea, Hilo, island of Hawai'i. It is my understanding that:

- The project consists essentially of extending the area currently used by three companies for quarries eastward on State land, by an as-yet undetermined amount, which will not exceed 15 acres.
- The Hawai'i State Department of Land and Natural Resources (DLNR) will act as the approving agency for the EA.
- The EA will be required to comply with Chapter 343, Hawai'i Revised Statutes.

Based on the above understandings, I am submitting the following proposal.

PROPOSAL

GEO will conduct an Environmental Assessment, in accordance with all applicable laws and regulations. The proposed work plan includes all work necessary for and including final acceptance by DLNR and by Yamada and Sons, Inc., of both the Draft EA and Final EA (including either Finding of No Significant Impact or Notice of Preparation of an EIS, as appropriate), subject to the understandings outlined above and conditions listed below. Please note that the conditions are structured so as to minimize the cost of the proposal and to avoid unnecessary tasks and expense for Yamada and Sons. It is recognized that up to this point, little coordination with regulatory agencies has taken

EXHIBIT B

place on the project and that once such coordination has occurred and environmental conditions are verified, it is possible that circumstances may warrant additional work.

CONDITIONS AND EXCLUSIONS

- The areas of investigation will include but not be limited to the following: water quality assurance; flora, fauna, and ecosystems; traffic impacts; geology, soils, and hazards; social, economic and community impacts; cultural impacts; historic sites; and water, utility and other infrastructure.
- GEO will require information on the proposed use of the site from Yamada and Sons, including such information as a brief, written description of the intended use; Site Plans; utility plans, if any; expected lifetime of use for facility and disposition plans at end of lease; information on existing and project quarrying and hauling schedules, discussion of compliance with regulations on blasting, etc.
- As part of the analysis, GEO's archaeological contractor will conduct an archaeological inventory survey, and obtain concurrence from the State Historic Preservation Division (SHPD) concerning the adequacy of these processes. It is important to note that the archaeological work proposed here is limited to *inventory survey only*. Any mitigation that might be required, including but not limited to such tasks as data recovery, burial treatment plans, and preservation plans, would be most appropriately dealt with if and when resources requiring such treatment would be unavoidably affected, and is thus not included in this proposal.
- An elementary cultural impact assessment (per Chapter 343), based upon review of readily available secondary published materials and interviews with a limited set of knowledgeable residents and/or cultural practitioners, will be conducted as part of this project. If DLNR determines through Draft EA comments or consultation with agencies, groups, or individuals that a more in-depth assessment is necessary, such services may be obtained as an add-on to the agreement or through separate contract.
- As part of the analysis, GEO will conduct professional botanical and ornithological reconnaissance of listed or proposed threatened and endangered plant and bird vertebrate species. Not included are studies of aquatic biology, bats (although the project's expected lack of effect on bats will be discussed in the EA) or any study of terrestrial or subterranean invertebrates. If consultation or comments on the Draft EA determine that such studies are necessary, they can be contracted on an add-on basis.
- The research will not include a Phase I Environmental Site Assessment, or any other study of toxic and hazardous materials, as it is assumed that the project site is free from contamination.
- A Traffic Impact Assessment Report (TIAR) will not be prepared as part of the EA, as traffic is not seen as a key issue.
- No tasks requiring the services of an engineer, such as flood studies, geotechnical analysis, pollution discharge studies or permits, or parking

- design, are included in this proposal.
- GEO will attend up to one public meeting or hearing, if determined to be necessary.
 - This proposal is based on the assumption that there are no major concerns with the project that would require significant mitigative measures or changes to the overall project concept, and no major changes to the project as described.
 - Any newspaper publication costs that may be required as part of the DLNR public involvement process are excluded and shall be treated as cost-plus items.
 - If DLNR determines that a Finding of No Significant Impact is not appropriate, preparation of an EIS is may be obtained as an add-on service.
 - The scope of work does not include application or processing of the Special Permit that is expected to be applicable to the project, nor any other permit.
 - This proposal does not include any fees or expenses related to preparation for or attendance at Contested Case Hearings or judicial proceedings.

SCHEDULE

Work on the project can commence immediately upon execution of the contract and receipt of the initial payment, and a draft of the EA should be complete within 10 weeks of commencement.

COST

The Environmental Assessment and related work, including all services described above, is proposed for a fixed fee of \$17,000 (Seventeen thousand dollars). This price includes taxes, expenses and the archaeological subconsultant study. Billing shall be monthly, based on percentage of work completed. The following table breaks down costs.

ITEM	COST
Environmental Assessment	10,000
Archaeological	5,500
Printing, Miscellaneous, Contingency	1,500
TOTAL	\$17,000

An initial payment of \$3,000 will be required to begin work.

PERSONNEL

Geometrician Associates consists of principal Ron Terry, Ph.D., an environmental scientist with thirteen years full-time experience in professional environmental assessment in Hawai'i; associate Patrick Hart, Ph.D., an experienced and published

biologist who specializes in native Hawaiian flora and fauna; and Graham Knopp, Ph.D., an environmental scientist.

Associated subconsultants include Rechtman Consulting for archaeology. Company résumés are available upon request.

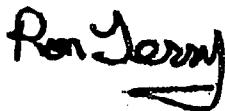
The terms offered in this proposal will be valid for 60 days after the date of my signature below. Please contact me to verify terms if you intend to sign the agreement after 60 days. Thank you for the opportunity of providing our services. If you have any questions, please call me at 982-5831. My e-mail address is ronterry@verizon.net.

SIGNATURES

This agreement is entered by and between Yamada and Sons, Inc., Geometrician Associates, LLC.

Approved:

GEOMETRICIAN ASSOCIATES



9/08/05

Ron Terry, Ph.D., Principal

Date

YAMADA AND SONS, INC.

AUTHORIZED SIGNATURE

Date

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05HD-258

Island of Hawaii

Approval in Principle of Direct Lease to Hospice of Hilo, Waiakea, South Hilo,
Hawaii, Tax Map Keys: 3rd/ 2-4-01: 24

APPLICANT:

Hospice of Hilo, a Hawaii non-profit corporation whose business and mailing address is
1266 Waianuenue Avenue, Hilo, Hawaii 96720

LEGAL REFERENCE:

Section 171-43.1, Hawaii Revised Statutes, as amended

LOCATION:

Portion of Government land situated at Waiakea, South Hilo, Hawaii, identified by Tax
Map Keys: 3rd/ 2-4-01: 24, as shown on the attached map labeled Exhibit A.

AREA:

39.456 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Residential (RS-10)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Inpatient Hospice Facility and Related Uses.

LEASE TERM:

Sixty Five (65) years.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

To be determined by the Board at a subsequent Land Board meeting after applicant satisfactorily complies with Chapter 343, HRS, and the Board formally approves the issuance of a direct Lease to Hospice of Hilo for the subject lands.

RENTAL REOPENINGS:

To be determined by the Board at a subsequent Land Board meeting after applicant satisfactorily complies with Chapter 343, HRS, and the Board formally approves the issuance of a direct Lease to Hospice of Hilo for the subject lands.

PERFORMANCE BOND:

To be determined by the Board at a subsequent Land Board meeting after applicant satisfactorily complies with Chapter 343, HRS, and the Board formally approves the issuance of a direct Lease to Hospice of Hilo for the subject lands.

PROPERTY CHARACTERISTICS:

Utilities - All utilities are available

Slope - Gentle

Legal access to property - Legal access to the property off of Mohouli Street.

Subdivision - Staff has verified that the subject property is a legally subdivided lot.

Encumbrances - The lease will be subject to any and all pre-existing easements.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This is a request for the Board's approval in principle of a lease to the Hospice of Hilo of an approximate 3 acres of TMK: 2-4-01: 24 and authorization for the Hospice of Hilo to proceed with compliance with Chapter 343, HRS.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Hospice of Hilo shall be required to:

- 1) Prepare and process, at its own cost, all necessary studies and documentation for compliance with Chapter 343, HRS, as amended;
- 2) Cooperate and coordinate all studies and documentation with the University of Hawaii and its efforts on the remaining portions of TMK: 3rd/ 2-4-01: 24;

REMARKS:

This same submittal was deferred at the Board's meeting in December 2005 due to discussions between the University of Hawaii at Hilo and Hospice regarding a cooperative arrangement involving a sublease to Hospice by UH Hilo. The concept involved a cooperative program utilizing nursing and future pharmacy school students within the Hospice facility. However, due to Hospice's need to proceed with funding efforts and the internal approval process required within the University system, both parties agreed that Hospice should proceed on their own for now. This approval is in principle and should a cooperative program become feasible in the next few months, staff will bring it back to the Board at the time of the final submittal after Chapter 343, HRS compliance.

The subject property is currently vacant and unencumbered. The parcel borders the Wailoa Flood Control drainage way and is heavily covered with what appears to be non-native trees and vegetation. The remaining bordering properties are primarily residential in nature except for our General Lease S-4004 to the Christ Lutheran Church.

Although, the parcel itself is zoned residential, it should be noted that some of the fee residential parcels along Mohouli Street have been rezoned to commercial. The proposed use by the Hospice of Hilo would be considered a higher use than residential and would be consistent with that trend. However, based on the current zoning and the proposed use, the Hospice of Hilo would need to obtain a special use permit from the County of Hawaii, Planning Department.

Based on the Board's approval in January 1996, the department issued General Lease No. S-5513 to Hospice of Hilo off of Waianuenue Avenue. Since the issuance of the lease, Hospice of Hilo successfully completed and has been operating out of its new facility since 1998. Hospice of Hilo is now requesting consideration for an expansion of their services to a new inpatient facility on the parcel that is the subject of this submittal (See request letter dated September 30, 2005 attached as Exhibit B). Hospice of Hilo is prepared to proceed with the necessary compliance with Chapter 343, HRS, but would like the Board's approval in principle prior to committing the time and costs associated with compliance.

Hospice of Hilo currently pays \$730 per year for General Lease No. S-5513 that was based on the Board's approval of rent at 25% of fair market value. At that time, the rationale on non-profit leases was that the Office of Hawaiian Affairs would receive their 20% of fair market and the additional 5% would cover administrative costs. Since that time, the Department of the Attorney General has opined that such rent arrangements are not legal and pursuant to statute, the Office of Hawaiian Affairs should only receive 20% of what is actually collected. As such, staff discontinued proposing such rent arrangements on non-profit leases.

Although Hospice of Hilo would obviously like rent to be as low as possible and qualifies for nominal rent pursuant to statute, it is willing to proceed with compliance with Chapter 343, HRS, and is agreeable to paying a reasonable nominal rent for this new lease. Upon satisfactory compliance with Chapter 343, HRS, Hospice of Hilo will provide the Board with detailed plans for their new facility and a proposal for what it can justify a reasonable nominal rent as part of the subsequent submittal to the Board for its new direct lease.

The University of Hawaii is also considering a request for the same parcel for the purposes of facilities associated with their recently approved School of Pharmacy in Hilo. The University of Hawaii plans to present their plan to the Board of Regents for approval sometime early next year before officially submitting a request to DLNR. Staff will submit the UH's request to the Board under a separate submittal pending Board of Regent's approval.

However, based on discussions with the Hospice of Hilo, the University of Hawaii has no objections to a removal of 3 acres from the larger parcel. The University of Hawaii feels that such a facility adjacent to the campus may provide cooperative opportunities involving university students.

Hospice of Hilo has been a model lessee since the commencement of its other lease and has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

No agency or community comments were solicited in that this is purely an approval in principle and the Hospice of Hilo will proceed to the necessary Chapter 343, HRS compliance that will incorporate the agency and community review and comment.

RECOMMENDATION:

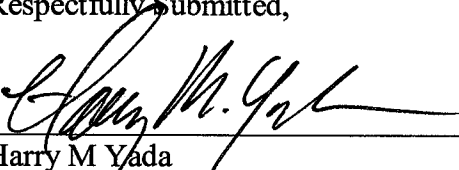
That the Board:

1. Approve of, in principle, a new direct lease to Hospice of Hilo, subject to the following:
 - a. At its own cost, Hospice of Hilo shall pursue satisfactory compliance with Chapter 343, HRS and obtain a FONSI within 8 months of the Board's approval;
 - b. Should Hospice of Hilo fail to obtain satisfactory compliance with Chapter 343, HRS, within 8 months, the Board's approval shall be considered rescinded;
 - c. Hospice of Hilo acknowledges the following:
 - i. All costs associated with the necessary compliance with Chapter 343, HRS, shall be borne by Hospice of Hilo;
 - ii. That this action is an approval in principle, does not provide any assurance of a direct lease and such approval of a direct lease shall be subject to consideration by Board under separate action after satisfactory compliance with Chapter 343, HRS;
 - iii. That there has been no representations or assurances made regarding the annual rent to be paid under a direct lease. Hospice of Hilo agrees to provide a proposal for rent and justification for such rent in connection with the Board's final consideration of a direct lease after satisfactory compliance with Chapter 343, HRS;
 - d. Hospice of Hilo shall consult and cooperate with the University of Hawaii in the Chapter 343, HRS compliance and the configuration of the lot to be subdivided for its purposes.

2. Authorize the issuance of a right-of-entry to Hospice of Hilo for the purposes of the necessary studies and surveys in connection with Chapter 343, HRS compliance.

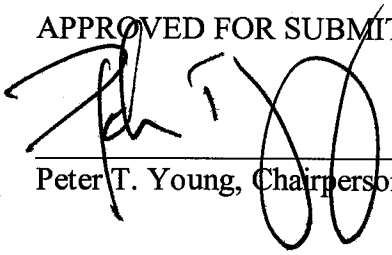
Respectfully Submitted,

✓



Harry M Yada
District Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

**REDUCED/NOT TO
SCALE**

9 May 1960: State of Hawaii
Carol L. Warden, Chairman
C. L. S. 1960

DOORWARD PARCELS:

The logo for the Taxation Maps Bureau of the State of Hawaii. It features the text "DEPARTMENT OF TAXATION" at the top, "TAXATION MAPS BUREAU" in the middle, and "STATE OF HAWAII" at the bottom. To the right of this text is a stylized graphic of a map of Hawaii, with the words "TAX MAP" written vertically next to it.

62 (University of Hawaii, Inc.)
(G.S. 4-9-1)
(Adult Student Housing, Inc.)
-Feb-14-

145

EXHIBIT A

WAIKAE CANE LOTS, WAIKAE, SOUTH HILO, HAWAII



SidneyFuke, Planning Consultant

100 Pauahi Street, Suite 212 • Hilo, Hawaii 96720
Telephone: (808) 969-1522 • Fax: (808) 969-7996

• Planning • Variance • Zoning
• Subdivision • Land Use Permits
• Environmental Reports

September 30, 2005

2005 OCT -3 PM 1:05

RECEIVED
LAND DIVISION
HILO, HAWAII

Mr. Harry Yada, Land Administrator
Hawaii District – State of Hawaii
Department of Land and Natural Resources
P.O. Box 936
Hilo, HI 96721-0936

Dear Mr. Yada:

Subject: State Lease Request – Hospice of Hilo
TMK: 2-4-01: portion 24

This is to follow up on our intermittent discussions on the subject matter, most recently on September 19, 2005.

As you know, I was the former president of Hospice of Hilo (HOH) and now serve as an advisory member of this organization. I am also a member of its Ad Hoc Committee for the General Inpatient Facility. It is on behalf of this organization - and also as its planner - that I am making this request.

HOH wishes to build and operate a twelve (12) to eighteen (18) bed general inpatient facility for the Big Island community. HOH entered into a partnership with the Hilo Medical Center to provide two (2) residential beds for its clients. Since its inception nearly three (3) years ago, the rooms are running in excess of 90% occupancy. In 2001, HOH commissioned a needs assessment study. That study confirmed that there already was a demand for at least a 12-bed facility due to population increases and especially increased in the elderly age group. We can anticipate this trend to only continue.

Pursuant to that objective, HOH has been searching for land that can accommodate this need. After a year of search, the Committee felt that the subject property, identified by TMK: 2-4-01: portion of 24 (see attached map), located at the end of Kapiolani Street and directly across of the Christ Lutheran Church would be quite suitable for this effort.

Because HOH is a non-profit organization with a limited budget, understandably it would like to minimize its up front expenses. In that regard, if possible, HOH would appreciate your and/or the Board's formal comments on this proposal; and if an approval in "principle" could be achieved, HOH stands ready to commission the required Environmental Assessment and submit a formal request of this site to the Board.

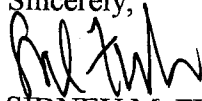
EXHIBIT B

Mr. Harry Yada
September 30, 2005
Page 2

Please note that the subject property consists of 39+ acres. However, HOH would need at least 5 acres for its purposes, particularly the makai area and closest to Kapiolani Road. Please note that HOH would be willing to design its project such that the balance of the property could be accessed and used for compatible uses.

We look forward to hearing from you at your earliest opportunity. Should you have questions on this matter, please feel free to contact me or Ms. Brenda Ho, Executive Director of HOH at 969-1733. Thank you very much!

Sincerely,



SIDNEY M. FUKU

Enclosure

Copy – Ms. Brenda Ho w/ enclosure

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05HD-255

Island of Hawaii

Grant of Term, Non-Exclusive Easement Covering Offshore Waters and
Submerged Lands to Kona BB Property, LLC for Moorings, Swim Platform and
Ingress/Egress Corridor, Kahuwai Bay, Kaupulehu, North Kona, Hawaii, Seaward
of Tax Map Key: 3rd/ 7-2-10: 010

APPLICANT:

Kona BB Property, LLC, a Delaware limited liability company, whose business and
mailing address is 280 Chestnut, Westmont, Illinois 60559-1139

LEGAL REFERENCE:

Section 171-13 and -53(c), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Kaupulehu, North Kona, Hawaii,
identified by Tax Map Key: 3rd/ 7-2-10: 010, as shown on the attached maps labeled
Exhibit A1 to A3.

AREA:

To be determined by survey and subject to approval by the Department of Accounting and
General Services, Survey Division.

ZONING:

State Land Use District: Conservation
County of Hawaii CZO: Not Applicable

January 27, 2006

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Existing moorings that were installed in the 1960s. See Remarks section for details.

CHARACTER OF USE:

Right, privilege and authority to install, use, maintain and repair, three existing two point commercial moorings, one swim platform mooring, a near shore boat pin, a shoreline post and an ingress/egress corridor, under and across State-owned submerged land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Annual and percentage rent consideration to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

55 years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Based on reviews by the Army Corp of Engineers and the Office of Conservation and Coastal Lands, the subject moorings are legal, non-conforming uses established sometime between 1962 and prior to the enactment of EIS laws and Chapter 343, HRS. As such the moorings are exempt from both EIS laws, Chapter 343, HRS and CDUA permitting.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

January 27, 2006

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine annual and percentage rent consideration;
- 2) Provide survey maps and descriptions showing the location of all mooring pins, shoreline post and an ingress/egress corridor in accordance with State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership of fast lands known as Kona Village Resort, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

Sometime between 1962 and 1968, prior to the establishment of conservation laws, five moorings buoys, a stern block mooring, a swim platform mooring, a rescue boat pin and a shoreline post used to secure boats to shore for loading of passengers were installed at Kahuwai Bay, Kaupulehu, North Kona, Hawaii by the operators of Kona Village Resort.

In 1978, The United States Army, Corps of Engineers, advised Kona Village Resort that since the moorings were installed prior to December 1968 and did not interfere with navigation, a permit from the Army Corp of Engineers was not required.

In October 2001, the Board approved an "after-the-fact" authorization for the three vessel mooring buoys, the swim platform mooring and passenger loading activities at Kahuwai Bay fronting the Kona Village Resort. The Division of Boating and Ocean Recreation issued annual renewable permits for three two point moorings commencing February 1, 2002. For whatever reason, no permit was issued for the swim platform.

The mooring buoys are used by commercial operators for the purposes of snorkeling, sightseeing and charter fishing tours that are sold by the Kona Village Resort on a fee-for-service basis. The commercial operators that own the vessels are not the permittee under these moorings but instead have mooring or commercial permits operating out of Honokohau Boat Harbor or Kailua-Kona Pier.

Upon attempting to renew the permit for 2005, it was discovered that the ownership for the Kona Village Resort had changed. The change in ownership and the need to redo the permits triggered questions regarding DOBOR's authority to issue mooring permits to a non-vessel owner.

January 27, 2006

In response to the department's request, the Department of the Attorney General issued an advice letter. The advice letter concludes that the permits cannot be transferred under the rules and there is no rule that will allow DOBOR to issue a mooring permit to a non-vessel owner. The advice letter further goes on to recommend that a solution may be for Kona BB Property LLC to seek a lease of submerged lands pursuant to Chapter 190D-21, HRS. Based on the advice of the Department of the Attorney General, the request was referred to Land Division for its review and consideration.

In December 1990, the Board approved a CDUA permit for moorings at Anaehoomalu Bay in Waikoloa, Hawaii. In August 1991, the Board approved the issuance of a similar non-exclusive easement for 5 commercial moorings including a swimming platform and an ingress/egress corridor to Waikoloa Beach Association at Anaehoomalu Bay. The moorings are operated in a similar fashion in which commercial operators utilize the moorings by way of agreements with the resort for the purposes of tours that are sold by the hotels. The actual easement document was finally completed in May 1997.

Although the Department of the Attorney General suggested the utilization of Chapter 190D, that specific chapter was primarily directed towards mariculture use. Staff believes that the Board would have the authority to issue a non-exclusive easement in the Kona Village situation pursuant to Chapter 171-13 and 53(c), HRS, similar to that of the Waikoloa case.

A draft of the submittal was circulated to the various federal, state and county agencies for comment. Although staff received a call from the Army Corp of Engineers with questions, staff did not receive any written comment and no specific concerns were relayed. The only other substantive comment made was by the County of Hawaii, Fire Department regarding appropriate access roads for fire apparatus in connection with any and all new buildings. As such, the comment appears to be a standard comment but was not applicable as these are existing moorings in the ocean and does not involve any new buildings.

Although the moorings may be legal non-conforming uses, there was never any appropriate land disposition from the State. Therefore, pursuant to the Board's action of June 28, 2002, under agenda item D-17 which established criteria for imposing fines for encroachments, staff is recommending a fine of \$500 as the subject encroachment is over 100 square feet.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

January 27, 2006

With regard to any special conditions in connection with this proposed non-exclusive easement, staff has the following comments:

1. Staff is recommending that this easement be based on an annual consideration and a possible additional percentage consideration based on the commercial use as may be determined by independent appraisal. The Waikoloa easement was based on a 15 year initial fixed rent but allowed for a possible percentage rent upon the reopening at the end of the 15th year.
2. At the time of DOBOR's submittal to the Board, the Division of Aquatic Resources had some recommendations with regard to the moorings. Although those changes were made, staff has added a recommendation that the moorings be subject to periodic inspections by DLNR at its discretion and that the Applicant be required to make periodic modifications that may be recommended as a result of such inspections.
3. Due to the nature of the moorings, the Applicant will be required to keep the moorings in good condition and repair; provided that should the moorings be substantially or completely destroyed as determined by the Lessor, the easement and all rights granted therein shall cease and terminate without any further action on the part of the Board.
4. As the easement is non-exclusive in over submerged lands, the public shall have access across the ingress/egress areas at all times.
5. Should the Board deem appropriate, the easements shall be subject to relocation at the cost of the Applicant.
6. No rental equipment, sales activity or any commercial sales activity whatsoever shall be permitted seaward of the shoreline.
7. Any and all agreements with concessionaires or what could be considered subleases shall be subject to consent by the Board.
8. All commercial operators shall be properly permitted and licensed with the Division of Boating and Ocean Recreation and any other appropriate maritime agencies.

RECOMMENDATION: That the Board:

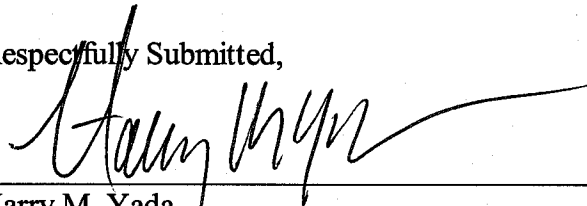
1. Impose a \$500 fine for illegal encroachment, under Section 171-6(12).

2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 7-2-10: 010, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Kona BB Property, LLC covering the subject area for the existing commercial two point moorings, a swim platform mooring, a near shore boat pin mooring, a shoreline post and an ingress/egress corridor for passenger loading, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term, non-exclusive easement document form, as may be generally amended from time to time, as amended for the purposes of submerged land;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (3) 7-2-10: 010, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. The moorings shall be subject to periodic inspections by DLNR at its discretion and the Applicant be required to make periodic modifications that may be recommended as a result of such inspections;
 - D. Due to the nature of the moorings, the Applicant will be required to keep the moorings in good condition and repair; provided that should the moorings be substantially or completely destroyed as determined by the Board, the easement and all rights granted therein shall cease and terminate without any further action on the part of the Board;
 - E. Except for repair and replacement of existing moorings, no additional moorings shall be installed without the specific approval of the Board and compliance of all applicable federal, state and county laws;
 - F. As the easement is non-exclusive and over submerged lands, the public shall have access across the ingress/egress areas at all times;
 - G. Should the Board deem appropriate, the easements shall be subject to relocation at the cost of the Applicant;

January 27, 2006

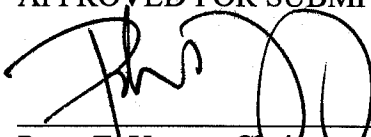
- H. No rental equipment, sales activity or any commercial sales activity whatsoever shall be permitted seaward of the shoreline;
- I. Any and all agreements with concessionaires and/or operators shall be subject to consent by the Board;
- J. All commercial operators shall be properly permitted and licensed with the Division of Boating and Ocean Recreation and any other appropriate maritime agencies;
- K. Review and approval by the Department of the Attorney General; and
- L. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



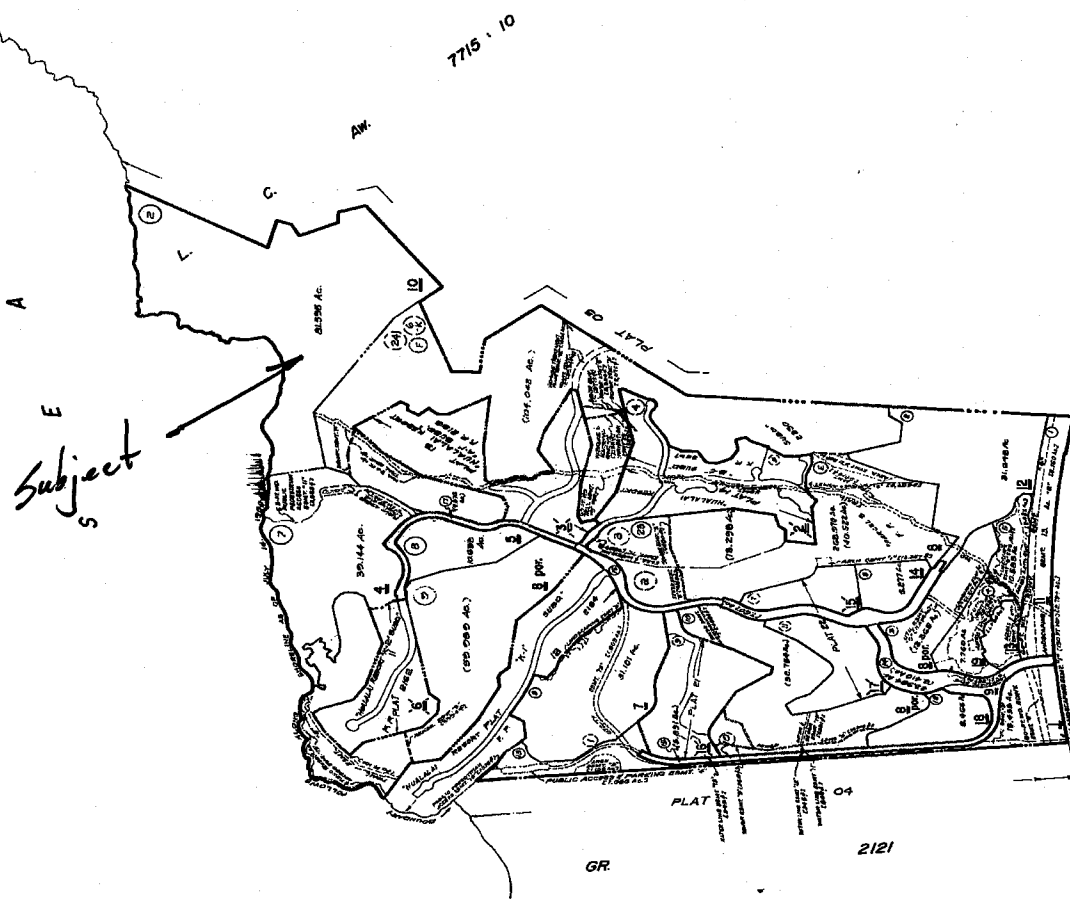
Harry M. Yada
District Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

REDUCED/NOT TO
SCALE



Subject

Overseas interest, a vendor's name recorded on this tax map might not be current. Please refer to computer and history sheets for current owners.

FOR PROPERTY ASSESSMENT PURPOSES - SUBJECT TO CHANGE

DEPARTMENT OF TREASURY PROPERTY ASSESSMENT DIVISION MAPING BRANCH STATE OF OHIO TAX MAP		COUNTY OF HAMILTON	
ZONE	SECTION	PLAT	
7	2	10	

SCALE: 1" = 500' ET

PRINTED:

POR. OF KAUPULEHU, NORTH KONA, HAWAII (Formerly por 7 1-03)

Site Map

Legend

- T Beach Pavilion
- T Chief Tahitian
- M Chief Marquesan
- F Fijian
- H Hawaiian
- M Hale Mahalia
- O Hale Ohana
- L Lava Saman
- L Lava Tahitian
- M Maori
- C New Caledonian
- N New Hebrides
- P Palau
- P Pond Hawaiian
- P Pond Marquesan
- P Pond Tahitian
- S Sand Hawaiian
- S Sand Marquesan
- S Sand Saman
- S Sand Tahitian

Office units will be confirmed minimum 7 night stays only.

Rate Schedule (In American)

- Kopi (All)
- Deluxe
- Superior
- Moderate Garden
- Standard
- Garden

Distances from Kona Village Resort Entrance to:

- Kailua-Kona 15 miles
- Keahole-Kona Airport 6 miles
- Waimea (Kamuela) 30 miles (Via Hwy. 19)
- Hilo 95 miles (Northern route via Hwy. 19)
- 130 miles (Southern route via Hwy. 11 and 19)

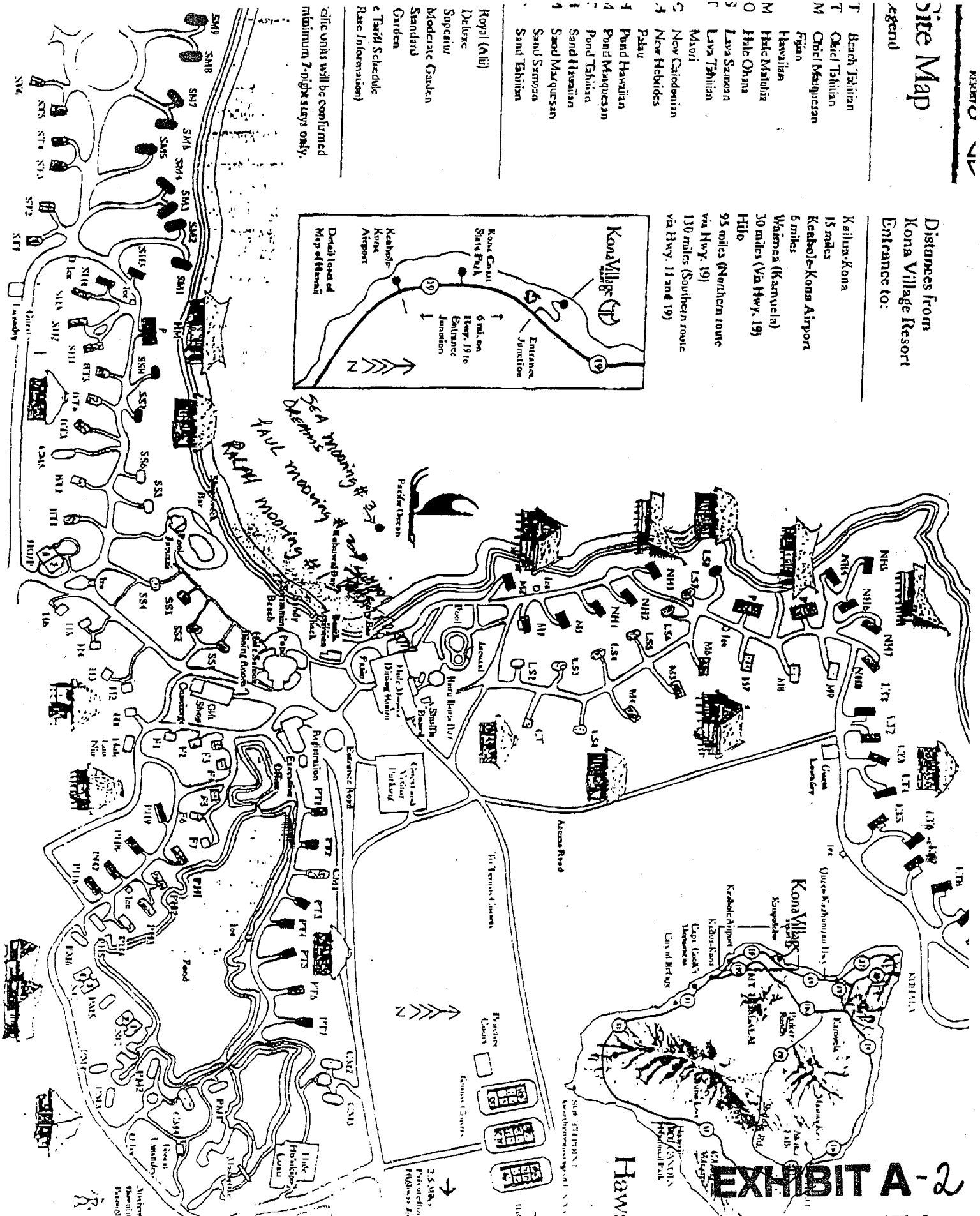
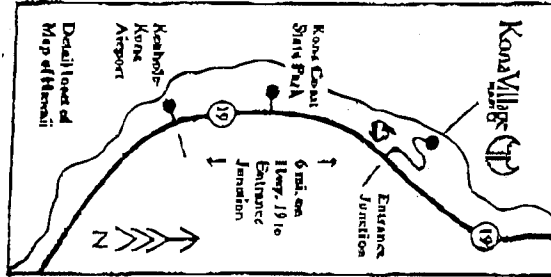


EXHIBIT A-2

11/20/46

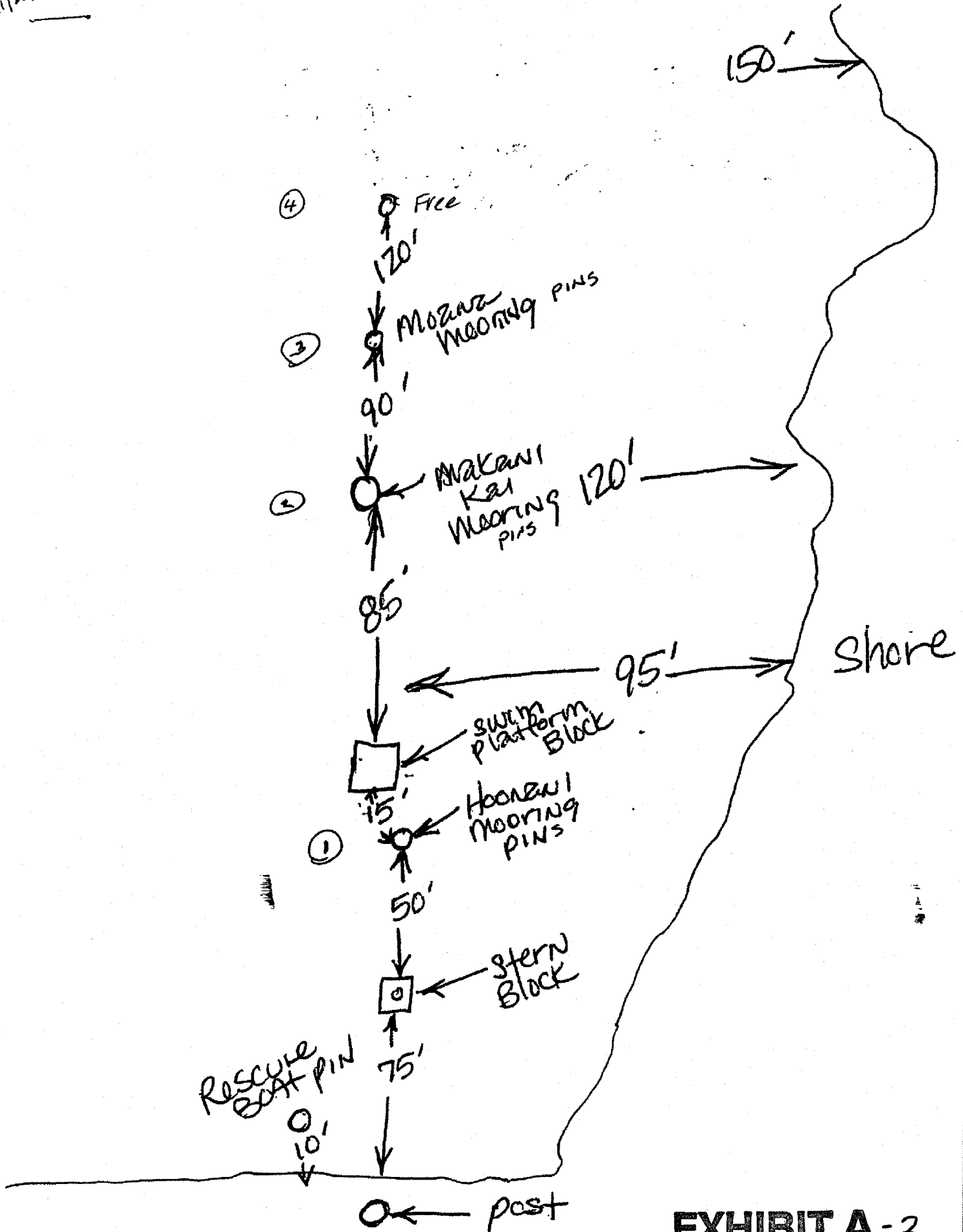


EXHIBIT A-3

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 06HD-012

Island of Hawaii

Acceptance of Perpetual Conservation Easement Over Private Lands Owned By
Hilo One, Incorporated, Paukaa, South Hilo, Hawaii
Tax Map Key: 3rd/ 2-7-03: 27

APPLICANT AGENCY:

Department of Business and Economic Development and Tourism, Office of State
Planning and the Land Use Commission.

PRIVATE LANDOWNER:

Hilo One, Incorporated, a Hawaii corporation, whose business and mailing address is 500
Kalaniana'ole Avenue, Hilo, Hawaii 96720.

LEGAL REFERENCE:

Sections 171-30(d), Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands situated at Paukaa, South Hilo, Hawaii, identified by Tax Map Key:
3rd/ 2-7-03: 27, as shown on the attached map labeled Exhibit A.

EASEMENT AREA:

To be determined by independent survey and subject to review and approval by the
Department of Accounting and General Services, Survey Division..

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Residential (RS-15)

CONSIDERATION:

None. Private landowner is donating the subject conservation easement to the State of Hawaii as a condition of the Decision and Order resulting from the re-districting of the subject lands from Agriculture to Urban through the Land Use Commission.

PURPOSE:

Conservation purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Chapter 343, HRS compliance requirements were fulfilled as part of the re-districting process through the Land Use Commission.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 2) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;

REMARKS:

On April 20, 1992, the owner of the subject area, Hilo One, Incorporated, filed a petition with the Land Use Commission for a District Boundary amendment reclassifying the subject area from Agriculture to Urban. On July 2, 1993, a Findings of Fact, Conclusions of Law, and Decision and Order was issued by the Land Use Commission confirming the boundary amendment to Urban with numerous conditions.

One of the conditions imposed was the granting of a conservation easement to the State of Hawaii over the subject area basically comprising Paukaa Stream. A copy of the section of the Decision and Order is attached as Exhibit B.

As a follow up to the subject condition, a letter dated July 21, 1994 (Exhibit C) was sent to the owner of the subject property by the then Director of the Office of State Planning, Harold Matsumoto providing a copy of the proposed conservation easement.

This is a process initiated over ten years ago and there is very little recollection of any discussions between DLNR, the Office of State Planning and the Land Use Commission by current staff. However, staff has serious reservations regarding the imposition of this type of conditions by the Land Use Commission without consultation with DLNR. Staff has concerns that this type of unilateral decision, by the Land Use Commission and the Office of State Planning, to impose a condition that involves the acquisition of real property interest by the State of Hawaii, without consultation with DLNR, may not sufficiently consider the management and liability exposure to the State. As an alternative, staff would suggest that reclassifying such areas to Conservation may accomplish the same result without an actual acquisition of a conservation easement. This type of decision to reclassify the area to Conservation would be within jurisdiction of the Land Use Commission, while the acquisition of real property interest is the jurisdiction of the Board of Land and Natural Resources.

Staff is concerned that the form of easement previously provided by the Office of State Planning and as prepared by the private landowner, Hilo One, Incorporated, goes beyond that necessary and may thereby create an unnecessary management or liability burden on the part of the State of Hawaii. Staff would note that there has been former precedent to this type of acquisition of a conservation easement by the State such as in the case of Olomana Golf Course. Staff would also note that the form of the easement document in the Olomana case was much more limited but provided the State with rights to enforce restrictions on prohibited uses. Additionally, the Applicant received a recent letter from the Land Use Commission (Exhibit D) dated December 28, 2005, indicating further changes to the proposed easement document.

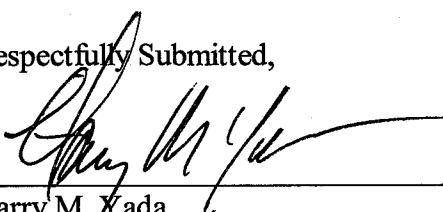
Given the foregoing, and noting that changing a condition of the Decision and Order would be an unfair burden on the owner, staff is recommending that the Board approve the acceptance of the perpetual conservation easement. However, staff would recommend that the Board NOT accept the form of easement as previously provided by the Office of State Planning or as submitted by the owner of the private land, Hilo One, Incorporated, and require that the final form of the perpetual conservation easement be drafted by the Department of the Attorney General. The Department of the Attorney General shall be provided the various forms of easement documents, the recent letter from the Land Use Commission, including that easement document form used in the Olomana case. The Department of the Attorney General will be requested to draft the easement to best protect the interest of the State while making its best attempt at fulfilling the intent of the condition imposed by the Land Use Commission.

No agency or community comments were solicited since the proposed easement was part of the overall boundary amendment process through the Land Use Commission that staff assumes incorporated adequate opportunity for concerns.

RECOMMENDATION: That the Board:

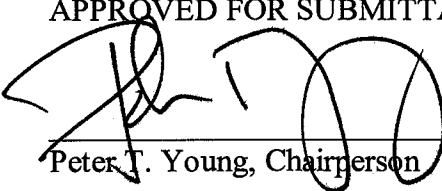
1. Authorize the acceptance of a perpetual conservation easement over the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The form of the perpetual conservation easement document shall be drafted by the Department of the Attorney General;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



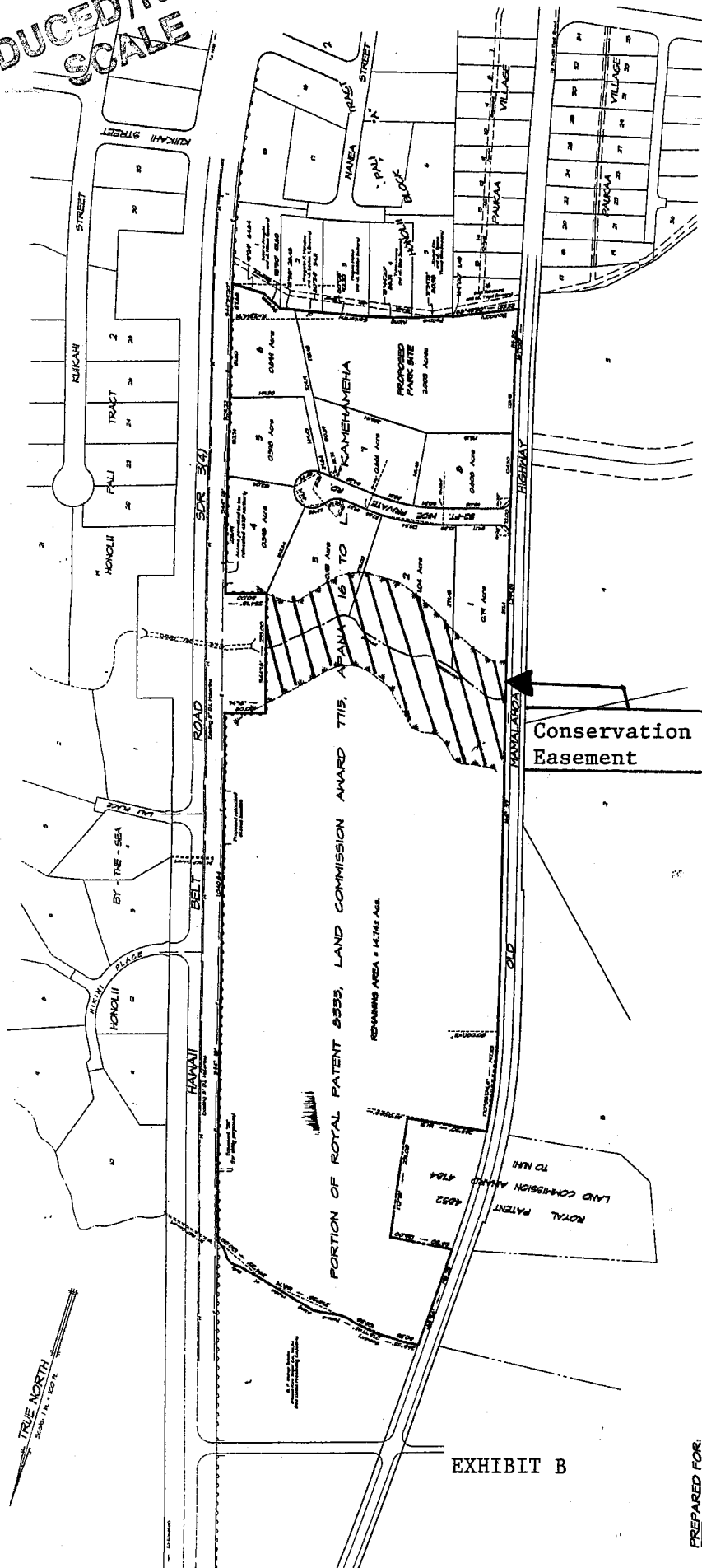
Harry M. Yada
District Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

REDUCED/NOT TO SCALE



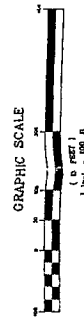
INABA ENGINEERING, INC.
273 Malvern Ave.
Hilo, Hawaii 96720



THIS WORK NOT PREPARED BY
FBI OR UNDER ITS SUPERVISION

NOV 2, 1997 15:00

HONOLII RIDGE, INCREMENT 1
PROPOSED SUBDIVISION OF A PORTION OF ROYAL PATENT 8335
LAND COMMISSION AWARD 7715, APANA 16 TO L. KAMEHAMEHA
PAUKAA, SOUTH HILO, ISLAND OF HAWAII, HAWAII
TAX MAP KEY: 3rd DIV. 2-7-03-27



PREPARED FOR:
HILO ONE, INC.
714 Kaneoheua A
Hilo, Hawaii 96721

NOTES:

1. Portion of subdivision within S-14.
2. Lot, areas and configuration are subject to changes to meet actual ground conditions.
3. Existing pavement locations delineated are approximate.
4. Subject to relocation of existing permitted vehicular access by the Department of Transportation.

Denotes Vehicle Access Permitted
Denotes NO VEHICLE ACCESS - Permitted

EXHIBIT A

may be deemed a nuisance. If conflicts do occur, the owners of the Property and not the existing farm businesses, shall bear the full cost of implementing mitigating actions.

8. Petitioner shall participate in the funding and construction of adequate wastewater transmission and disposal facilities, on a pro rata basis, as determined by the State Department of Health and the County Department of Public Works.

9. Petitioner shall fund the design and construction of drainage improvements required as a result of the development of the Property to the satisfaction of the County of Hawaii and the State Department of Transportation.

→ 10. Petitioner shall grant a conservation easement, or easements, to the State of Hawaii for Paukaa Stream and gulch, to the satisfaction of the State Department of Land and Natural Resources. The conservation easement, or easements, shall be recorded with the State of Hawaii Bureau of Conveyances or Land Court prior to the sale of the Property or any portion thereof. Petitioner shall submit a copy of the recorded easement, or easements, to the Land Use Commission, the Office of State Planning, and the County of Hawaii.

11. Petitioner shall participate in an air quality monitoring program as specified by the State Department of Health.

12. Petitioner shall cooperate with the State Department of Health and the County Department of Public Works



OFFICE OF STATE PLANNING

Office of the Governor

MAILING ADDRESS: P.O. BOX 3540, HONOLULU, HAWAII 96811-3540
STREET ADDRESS: 250 SOUTH HOTEL STREET, 4TH FLOOR
TELEPHONE: (808) 587-2848, 587-2800

JOHN WABBE, Governor

FAX: Director's Office 587-2848
Planning Division 587-2824

Ref. No. P-5142

July 21, 1994

Mr. Roland Higashi
Hilo One Development
714 Kanoelehua Avenue
Hilo, Hawaii 96720

Dear Mr. Higashi:

Subject: Conservation Easement for Paukaa Stream

As you recall in Docket No. A92-676, filed by Hilo One, Incorporated, 24.659 acres of land situated at Paukaa, South Hilo, Island and County of Hawaii, State of Hawaii and identified as Hawaii Tax Map Key 2-7-03:27 were reclassified from the Agricultural District to the Urban District.

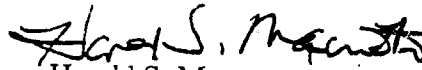
According to the Petitioner's Findings of Fact, Conclusions of Law, and Decision and Order paragraph no. 72:

Petitioner agrees to provide a conservation easement for the Paukaa Stream and gulch in favor of the State of Hawaii, with the terms of said easement to be satisfactory to the Department of Land and Natural Resources. Petitioner also agrees to record the easement with the State of Hawaii Bureau of Conveyances or Land Court, as appropriate, prior to the sale of the Property or any subdivided lot within the Property.

Enclosed is a conservation easement for Paukaa Stream for your review and signature. We request your signature by August 19, 1994. We also request that you attach a copy of your mortgage as Exhibit C and a map of the easement area as Exhibit D. The easement area extends from the top of the gulch where there is a break in the contour to the opposite side of the gulch for the length of the stream that passes through the Property.

If you have any questions please call Rebecca Alakai at 587-2806.

Sincerely,


Harold S. Masumoto
Director

Enclosure

cc: Mr. Keith Ahue, DLNR
Ms. Esther Ueda, Land Use Commission (w/enclosure)

EXHIBIT C

LINDA LINGLE
GOVERNOR



ANTHONY J.H. CHING
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

P.O. Box 2359
Honolulu, Hawaii 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

December 28, 2005

Alan M. Okamoto, Esq.
Nakamoto, Okamoto & Yamamoto
187 Kapiolani Street
Hilo, Hawaii 96720

Dear Mr. Okamoto:

Subject: LUC Docket No. A92-676/Hilo One, Inc.
TMK No.: [3] 2-7-003: 027
Conservation Easement

This in response to your correspondence dated November 25, 2005, transmitting the following:

- 1) The recent draft grant of easement for Pauka'a Stream;
- 2) Botanical and Wetlands Reconnaissance; and
- 3) 1994 version of the draft grant of easement.

Upon review of the transmitted documents, it appears that the recent draft grant of easement for Pauka'a Stream does not reflect the recommended amendments proposed by Ron Terry, Ph.D. and Patrick Hart, Ph.D. regarding the draft conservation easement, which are:

Rewrite the condition of the draft easement document relative to grading to read as follows:

(e) Grubbing, grading, clearing, or other sediment exposing activities of an area shall be prohibited. ~~larger than 100 linear feet along the stream~~

EXHIBIT D

Alan M. Okamoto, Esq.

December 28, 2005

Page 2

~~within any one month period and without planting the area with plants
that provide good ground cover within one week].~~

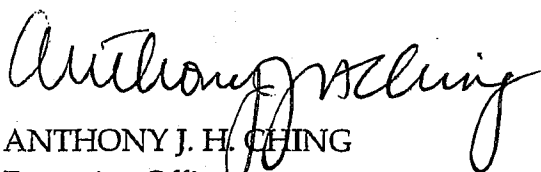
and, include the following statement with regard to the purpose of the
conservation easement:

"...and removal of invasive alien species without the use of heavy
equipment."

Thank you for allowing us the opportunity to comment on the recent draft grant of
easement for Pauka`a Stream. We look forward to your submittal of a copy of the final
recorded easement in compliance with Condition No. 10 of the Findings of Fact,
Conclusions of Law and Decision and Order.

Please do not hesitate to contact Max Rogers of my staff at 587-3822, should you require
clarification or any further assistance.

Sincerely,



ANTHONY J. H. CHING
Executive Officer

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 05od-240

OAHU

Set Aside to Department of Land and Natural Resources,
Administrative Services Office, for Storage Purposes,
Honolulu, Oahu, TMK (1) 2-2-006:025.

APPLICANT:

Department of Land and Natural Resources, Administrative Services
Office

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu,
identified by Tax Map Key: (1) 2-2-006:025, as shown on the
attached map labeled Exhibit A.

AREA:

13,011 square feet, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: R-5

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Vacant and unencumbered.

PURPOSE:

Storage purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Not applicable.

REMARKS:

The subject property is a vault within a tunnel built by a local bank through the slopes of Punchbowl. It was formerly encumbered under GL 3899 issued to First Hawaiian Bank for vault facilities. On June 24, 2005, agenda item D-9, the Board approved the mutual cancellation of GL 3899. The Department has taken possession of the property after the cancellation of GL 3899 and the vacating of the property by First Hawaiian Bank.

Over the years, Administrative Services Office (ASO) of the Department has kept, among other records for the Department, financial records of the leases managed by Land Division per the State's General Records Schedules controlling the retention period of records. These records include, among other records, invoices, bills, fiscal memos, internal journal vouchers and adjustment calculations. Though it is not required by any statute, ASO retains the most of these records for the duration of a contract or lease. Physically, the records are stored in the Fiscal Office and a container located at the Department's baseyard at Middle Street. Since the storage capacity at both locations has been fully utilized, ASO recently started looking for additional storage space.

Placing another container at the baseyard is one of the alternatives. The purchase cost for a 40-foot used container is about \$4,000 and it will generally last for about seven to eight years before leaking and rusting occur. To prolong the life of a container, sheetmetal with a layer of special foam may be added to the roof of the container. This costs an additional \$7,000. Therefore, the total cost for a 40-foot used container is generally about \$11,000.

After learning the subject tunnel was to be vacated by the lessee, ASO studied the possibility of storing the records in the tunnel. Electricity and water are available at the subject tunnel. ASO only requires electricity for lighting while its staff is inside the tunnel. ASO does not anticipate an electric bill of a substantial amount since the number and duration of visits are usually kept to minimum. The current minimum amount

charged by Hawaiian Electric Company is \$17 per month, or \$204 per year.

Between the two options, using the tunnel will be cheaper than purchasing a container. ASO has agreed to pay all costs associated with the subject property and requests the Board to set aside the subject property to it for storage purposes.

The proposed use is recognized by the City and County's (County) Department of Planning and Permitting (DPP) as a public use and permitted in the residential district.

Department of Hawaiian Home Lands and the County's Department of Facilities Maintenance had no comment on the request. Comments from the County's DPP are mentioned above. State's Historic Preservation Division and Office of Hawaiian Affairs have not responded as of the suspense date.

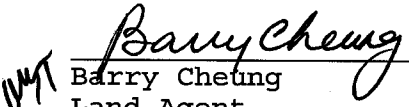
There are no other pertinent issues or concerns.

RECOMMENDATION:

That the Board approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Administrative Services Office, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
Land Agent


APPROVED FOR SUBMITTAL:

Peter T. Young, Chairperson

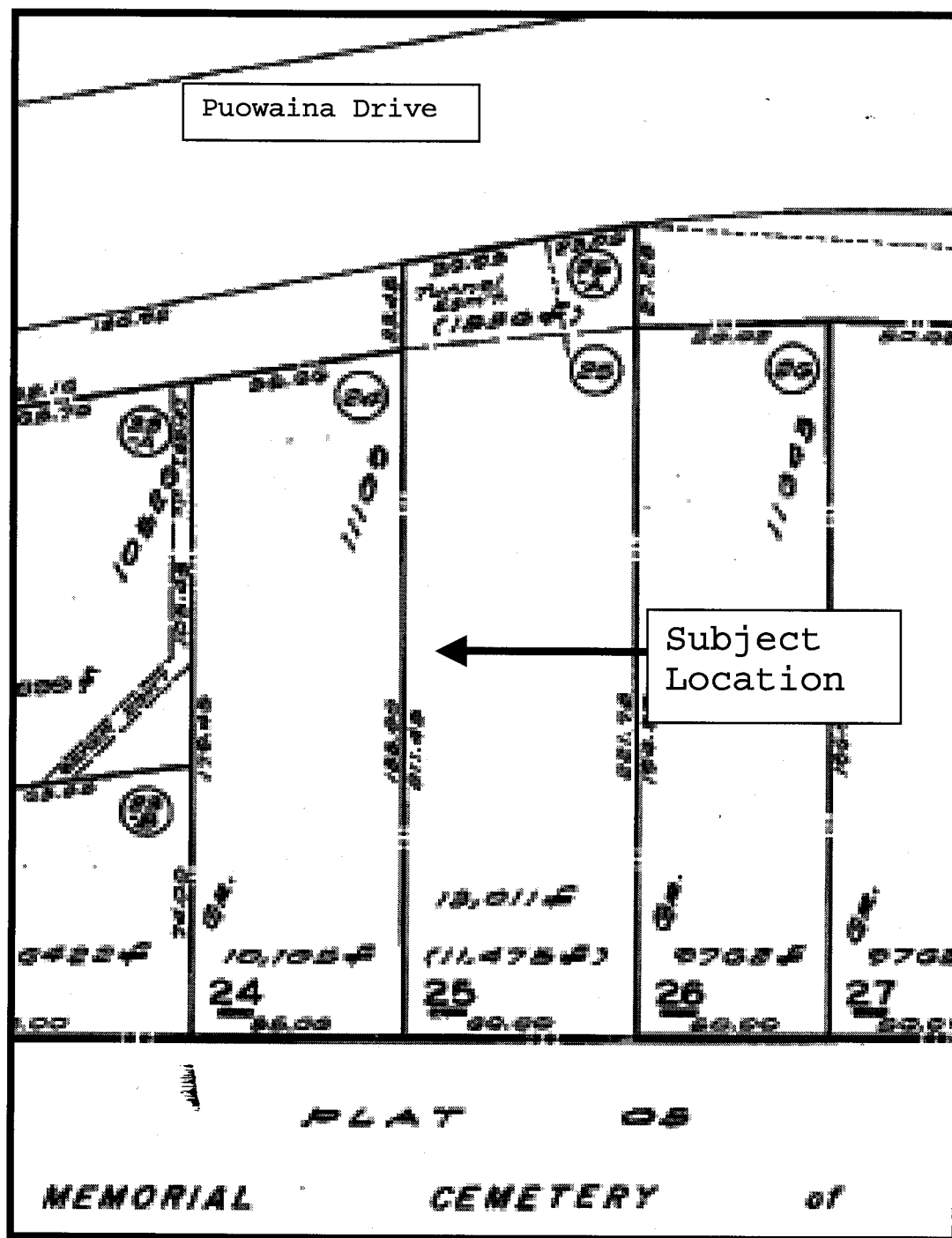


EXHIBIT A

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Issuance of Right-of-Entry Permit to URS Corporation on
Lands Encumbered by General Leases, Maunalaha, Honolulu,
Oahu, Tax Map Key: (1) 2-5-24:various

APPLICANT:

URS Corporation, a Nevada corporation whose business and mailing
address is 615 Piikoi Street, 8th Floor, Honolulu, Hawaii 96814.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Maunalaha, Honolulu,
Oahu, identified by Tax Map Key: (1) 2-5-24: various, as shown on
the attached map labeled Exhibit A and Current Use Status
Section.

AREA:

See Exhibit A.

ZONING:

State Land Use District: Conservation
City and County of Honolulu LUO: P-1

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES ____ NO X

CURRENT USE STATUS:

TMK (1) 2-5-024:013 which is vacant and unencumbered.

Other TMKs involved:

Encumbered by general leases for residential purposes as listed below

<u>Lease No.</u>	<u>Tenant</u>	<u>TMK</u>
GL 4903	Nancy & T. Botheiiho Mauka	(1) 2-5-024:014
GL 4885	Melvin Aila	(1) 2-5-024:025
GL 4886	Katherine Akana et al	(1) 2-5-024:026
GL 4887	Winona Maka et al	(1) 2-5-024:027
GL 4897	Soloman & Emma Kalima	(1) 2-5-024:028
GL 4898	William & Stevens Kalima	(1) 2-5-024:029
GL 4891	Alfred Fountain	(1) 2-5-024:030
GL 4913	Arnold & Corinne Spencer	(1) 2-5-024:031
GL 4899	Ronald Lopes	(1) 2-5-024:032

CHARACTER OF USE:

Conduct a study for the purpose of evaluating potential hazards.

TERM OF RIGHT-OF-ENTRY:

Three months from the commencement of the study or upon the completion of the study.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 5, Item No. 1, that states "Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

None.

REMARKS:

The Department has hired URS Corporation (URS) to conduct a study to evaluate potential hazards in the Maunalaha area. The scope of work includes evaluation of existing conditions and geology, rockfall issues (if any), topography survey, field investigations, analysis of slope conditions and stability.

URS and its land surveyors require a right-of-entry on the above-mentioned State lands. The field work is scheduled to start in January 2006, and is scheduled to be completed around March 2006. During this period, URS and its land surveyors may cross over the subject State lands to the sites where the study is to be conducted. The right of entry shall be valid only for the duration of the period required to complete the study. URS will contact the lessees at a later date regarding specific dates and times for entry onto the subject State lands.

Office of Conservation and Coastal Lands has no objection to the request.

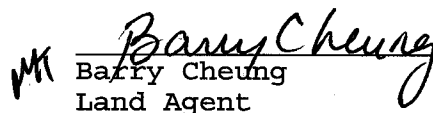
There is no other pertinent issues or concern. Staff has no objection to the request.

RECOMMENDATION:

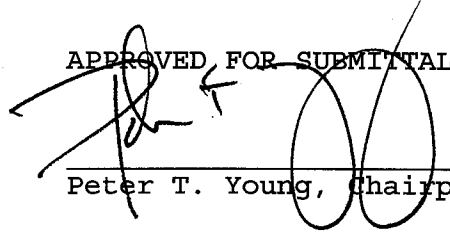
That the Board, subject to the Applicant fulfilling the Applicant Requirements above, authorize the issuance of a right-of-entry permit to URS Corporation covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

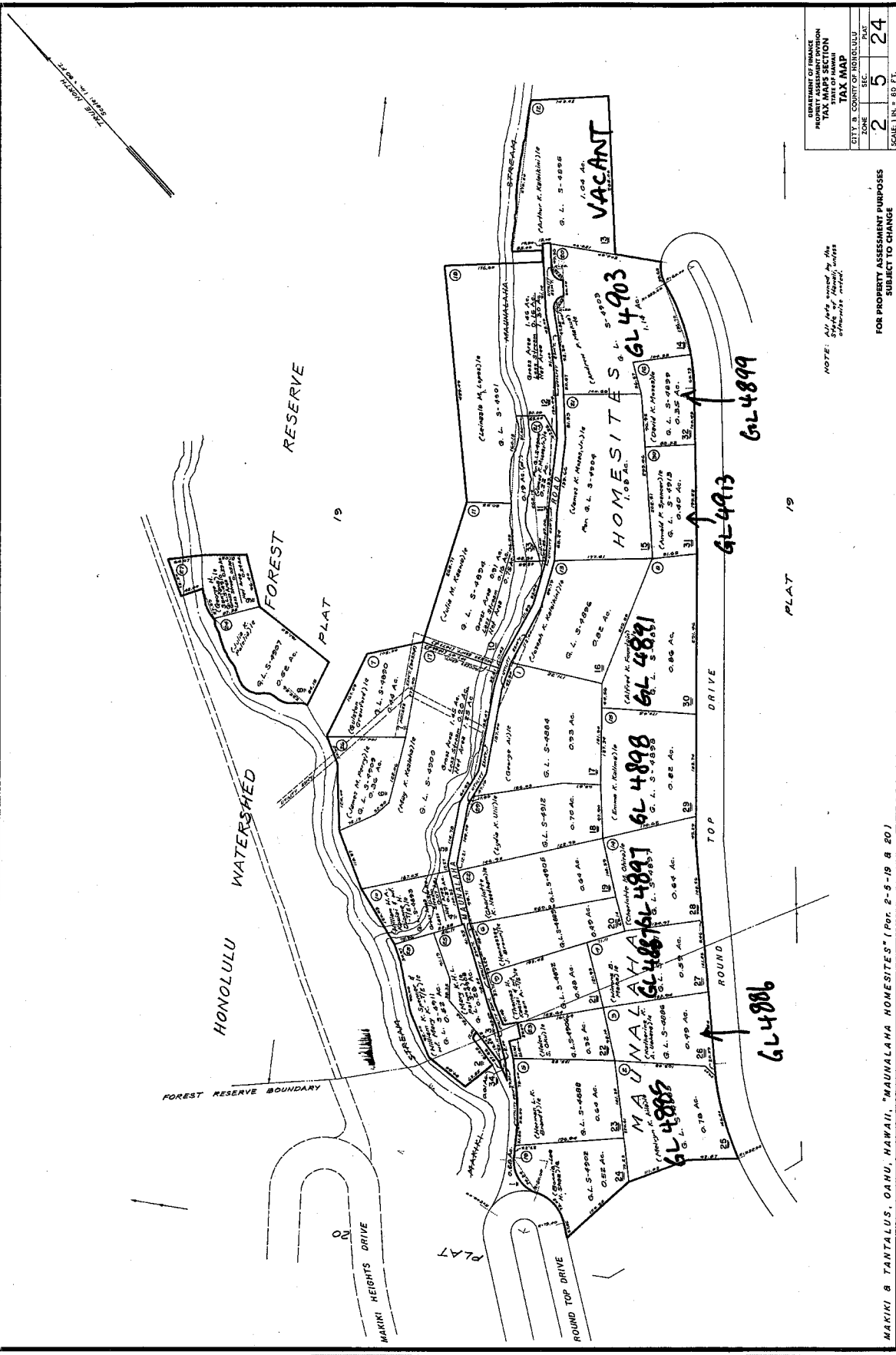
1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Consent to Assign General Lease No. S-4007, Alofa Corp.,
Assignor, to God's Love Mission, Inc., Assignee, Waimanalo,
Koolauloko, Oahu, Tax Map Key: (1) 4-1-27:23 & 24.

APPLICANT:

Alofa Corp., as Assignor, to God's Love Mission, Inc., a domestic
non-profit corporation, whose mailing address is P.O. Box 75700,
Honolulu, Hawaii 96815, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolauloko,
Oahu, identified by Tax Map Key: (1) 4-1-27:23 & 24, as shown on
the attached map labeled Exhibit A.

AREA:

34.538 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CHARACTER OF USE:

General agriculture purposes.

TERM OF LEASE:

55 years, commencing on September 12, 1966 and expiring on
September 11, 2021. Last rental reopening occurred on April 27,
1999; next rental reopening is scheduled for April 27, 2009.

ANNUAL RENTAL:

\$26,300.

CONSIDERATION:

None.

RECOMMENDED PREMIUM:

Nothing. See Remarks section for the reason of assignment. Both Assignor and Assignee are owned and managed by Mr. Julius Ah Sam and his family.

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed:	YES	<u>X</u>	NO	_____
Registered business name confirmed:	YES	<u>X</u>	NO	_____
Good standing confirmed:	YES	<u>X</u>	NO	_____

ASSIGNEE:

Place of business registration confirmed:	YES	<u>X</u>	NO	_____
Registered business name confirmed:	YES	<u>X</u>	NO	_____
Good standing confirmed:	YES	<u>X</u>	NO	_____

REMARKS:

The subject lease was sold at public auction for a term of 20 years commencing September 12, 1966. Alofa Corp., the Assignor, acquired the leasehold interest pursuant to a foreclosure proceeding. The Board consented to the assignment to Alofa Corp. in 1999.

Mr. Julius Ah Sam, President of Alofa Corp., set up God's Love Mission, Inc. in 2002 as a non-profit organization. Mr. Ah Sam advised staff that he is planning to make use of some grants and donations to improve the property. According to Mr. Ah Sam, transferring the lease to a non-profit organization is a prerequisite to these grants and/or donations. The subject request is to allow his organization to pursue additional resources to improve the property. A copy of his letter is attached as Exhibit B.

According to Mr. Ah Sam, the Assignee will be owned and managed by Mr. Ah Sam who was raised on a farm in Samoa. Mr. Ah Sam hired a field supervisor, Mr. Posini, to assist him with the field work. Mr. Posini has over 30 years experience in farming and worked in a farm before moved to this country. The management and operation of God's Love Mission, Inc. will be the same as Alofa Corp.

Assignor is in compliance with the terms and conditions of the lease. There were Notice of Defaults issued to the Assignor in the past. However, the Assignor timely cured those defaults and

is current on the terms and conditions of the lease. Assignor also paid off the Special Installment Agreement which was a result of a late rental reopening.

Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

There are no outstanding rental reopening issues.

Staff did not solicit comment from other agencies as the current use is not changed.

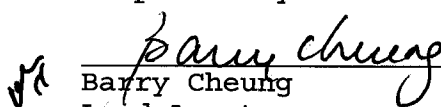
Staff discussed the request with Mr. Ah Sam in relation to allowing a non-profit organization to become a tenant for an agriculture lease. A concern is that the tenant apparently needs to rely on donations and grants to successfully operate the farm. Mr. Ah Sam explains that the non-profit entity allows opportunities for financial assistance. It should not jeopardize the ongoing compliance with the terms and conditions of the lease by his organization. Staff notes that ownership and management of the non-profit entity is the same as the Assignor, the lease rent remains unchanged, and the current Lessee/Assignor is otherwise in compliance with its lease. Therefore, staff has no objections to the request at this time.

RECOMMENDATION:

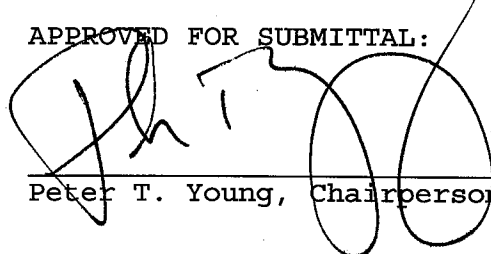
That the Board consent to the assignment of General Lease No. S-4007 from Alofa Corp., as Assignor, to God's Love Mission, Inc., as Assignee, subject to the following:

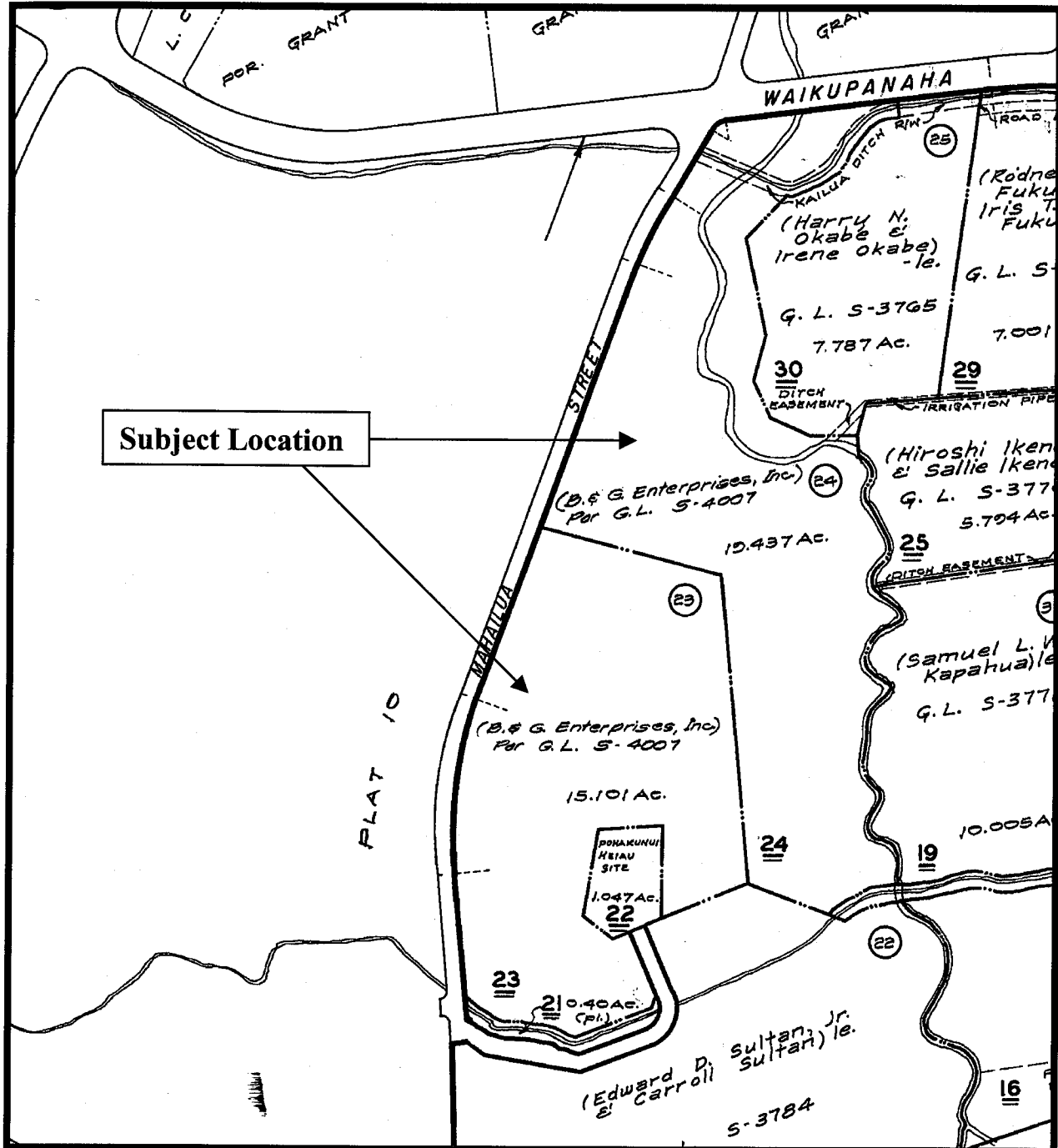
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson



TMK (1) 4-1-27:23 & 24

EXHIBIT A

JULIUS AHSAM

P.O. Box 75700, Honolulu, HI 96836, Ph. 808-847-4635

RECEIVED
LAND DIVISION

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

January 10, 2006

Barry Cheong
Land Division
DLNR

Re: Waimanalo Lease S. 4007

Aloha Barry,

As discussed with you, I wish to assign my lease from Alofa Corp to God's Love Mission. Here are some of the reasons why:

1. It will be more beneficial for the farm if it was under a non-profit. There are several improvements that I would like to do to the farm to make it more profitable if it was operated by my non-profit Company (God's Love) than by Alofa. Particularly in the area of finance. It opens up assistance from Donations, grants etc. That could be used for improvement.
2. Both Alofa Corp and God's Love do virtually the same things except God's Love is a 501(c)3 non-profit status. So I do not need two corporations. I want to just use God's Love from here on.
3. We have helped feed many low income, needy and homeless people in our community from farm produce. Infact we feed up to 500 homeless here in Honolulu weekly. We can do a lot more for these people if the farm was operated by my God's Love, no-profit. Again it will be easier to get financial assistance.
4. I am the owner and president of both companies. So I am still the owner of the Farm and am also responsible for all lease payments. Insurance, taxes etc. So things will continue as it was but with the potential for better things with the ownership by God's Love.

I thank you in advance for approving the assignment of Lease S.4007 as requested.

Barry, could you please present this request for approval by the Board meeting on January 13. So that I can have my Lawyer do the transfer before I travel next week. I would really appreciate it.

Blessings

J. Ahsam

EXHIBIT " _ "

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 27, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

03OD-089

OAHU

Amend Prior Board Action of March 11, 2005 under Agenda Item D-5, for Sale of Reclaimed (Filled) Land to Daniel and Paulette Stone, at Kaneohe, Koolaupoko, Oahu, TMK (1) 4-5-102:24 seaward.

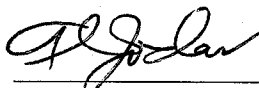
On March 11, 2005 under Agenda Item D-5, the Board approved the Sale of Reclaimed (Filled) Land to Daniel and Paulette Stone.

The Tax Map Key in the title and location heading should be (1) 4-5-104:24, however, 4-5-102:24 was inadvertently listed. Staff recommends the Board revise its prior action by replacing (1) 4-5-102:24 with (1) 4-5-104:24. Our deputy attorney general advised us to have the correction formally approved to comply with the sunshine law requirements.

RECOMMENDATION: That the Board:

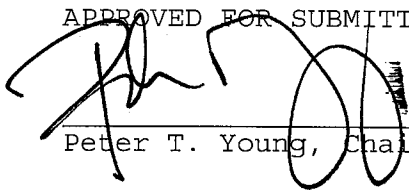
Amend its action of March 11, 2005 under Agenda Item D-5 by replacing Tax Map Key in the title and location heading with (1) 4-5-102:24.

Respectfully Submitted,



my Al Jodar
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson